

Pro Se 1 2016

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RE

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

BY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTONRandell B. NealyCASE NO. 2:22-cv-00136-JCC
[to be filled in by Clerk's Office]

COMPLAINT FOR A CIVIL CASE

Jury Trial: ☐ Yes ☒ No

Plaintiff(s),

v.

VA Hospital Seattle
~~U.S. Government~~
RN

Defendant(s).

I. THE PARTIES TO THIS COMPLAINT

A. Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Street Address

City and County

State and Zip Code

Telephone Number

Randell B. Nealy7515 24th Ave SW #1Seattle WA KingWASHINGTON 98106206-539-6364

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B. Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name

VA Hospital Seattle

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

Defendant No. 2

Name

US Government

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

Defendant No. 3

Name

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

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Defendant No. 4

Name

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

II. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

51 US Code § 20137 sections 1346 (b)
and 2672 of title 28

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B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual.

The plaintiff (name) _____, is a citizen of the
State of (name) _____.

b. If the plaintiff is a corporation.

The plaintiff, (name) _____, is incorporated under
the laws of the State of (name) _____, is incorporated under
the laws of the State of (name) _____, and has its principal
place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual.

The defendant, (name) Randell B. Nealy, is a citizen of the
State of (name) WASHINGTON STATE. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation.

The defendant, (name) _____, is incorporated under
the laws of the State of (name) _____, and has its principal
place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____,
and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

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3. The Amount in Controversy.

The amount in controversy-the amount the plaintiff claims the defendant owes or the amount at stake-is more than \$75,000, not counting interest and costs of court, because (explain):

Seriousness & extent of injury
exceeds \$75,000

III. STATEMENT OF CLAIM

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

From late 2016 to April 2019, while under the care of VA Hospital/Seattle, a parasitic infection went undiagnosed and caused injury to Randall B. Neely

IV. RELIEF

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Sexual dysfunction & gastrointestinal incontinence
and pain 3) 2 1/2 yrs of torture
\$342,000

V. CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper

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1 purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
2 (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or
3 reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so
4 identified, will likely have evidentiary support after a reasonable opportunity for further
5 investigation or discovery; and (4) the complaint otherwise complies with the requirements of
6 Rule 11.

7 I agree to provide the Clerk's Office with any changes to my address where case-related
8 papers may be served. I understand that my failure to keep a current address on file with the
9 Clerk's Office may result in the dismissal of my case.

Date of signing:

Feb 1, 2022

Signature of Plaintiff

Randall B. Nealy

Printed Name of Plaintiff

Randall B. Nealy

Date of signing:

Signature of Plaintiff

Printed Name of Plaintiff

Date of signing:

Signature of Plaintiff

Printed Name of Plaintiff



Roger P. Tatum, M.D., FACS
Professor and Chief of Surgery,
VA Puget Sound
1660 S. Columbian Way, s-112-gs
Seattle, WA 98108
Phone: (206) 764-2141
Fax: (206) 764-2529

January 21, 2020

**RE: Disability under 38 U.S.C. 1151 for patient Randell B.
Nealy, Birth date [REDACTED], Service # [REDACTED]**

To Whom It May Concern,

On November 24, 2015 I performed a laparoscopic bilateral inguinal hernia repair using 2 Bard 30 Max Mesh Implant in a surgical procedure for Mr. Nealy (see medical records). The procedure was successful and Mr. Nealy was discharged home on the same day. However over the next week while at home he continued to have pain and dizziness and was readmitted to the VA on December 1, 2015, at which time he was found to have a pelvic hematoma on CT scan of his abdomen and pelvis. Mr. Nealy then underwent angiography in an attempt to locate the source of internal bleeding, but none was identified. Fortunately, the bleeding stopped on its own and Mr. Nealy was released after 5 days in ICU. This surgical procedure has caused other issues and to my knowledge has not happened to any other of my patients, thus was not a reasonably foreseeable outcome. Since then, unfortunately over time Mr. Nealy has continued to experience chronic groin pain with difficulties in performing some of his normal activities. It is possible that irritation from the mesh has caused this pain, and as such both Mr. Nealy and I have contacted the manufacturer of this product for further information and guidance. Of note, these implants are not removable without extreme impact and possibly worsening of Mr. Nealy's symptoms.

Pursuant to this matter under 38 U.S.C. 1151 I support his claim of 80% disability related to chronic pain and limitations after his hernia surgery.

Thank you very much for your consideration of Mr. Nealy's request and for taking the time to read this letter of support.

Sincerely,

A handwritten signature in black ink, appearing to read "R. P. Tatum", with a long horizontal stroke extending to the right.

Roger P. Tatum, M.D., FACS

Progress Notes

NEALY, RANDELL BRYAN

(65)

*** WORK COPY ONLY ***

Printed: Jan 11, 2021 12:52

Date/Time	Type of Note	Author
10/25/2020 14:57	EMERGENCY DE	Janet A. Ros

Note Text

LOCAL TITLE: EMERGENCY DEPARTMENT PROVIDER NOTE

STANDARD TITLE: EMERGENCY DEPT NOTE

DATE OF NOTE: OCT 25, 2020@14:57 ENTRY DATE: OCT 25, 2020@14:57:56

AUTHOR: ROSENQUIST, JANET A EXP COSIGNER:

URGENCY: STATUS: COMPLETED

Emergency Department NOTE:

CHIEF COMPLAINT: 65 year old male presenting with acute right eye pain after had syncopal episode yesterday and fell in some bushes. Had right eye irritation after and hasn't gone away. Tetanus current.

HISTORY OF PRESENT ILLNESS:Hx of extensive cardiac disease and has a caregiver who looks after him. Has had syncope before.

REVIEW OF SYSTEMS:

General: positive for malaise from right eye pain.

Eye: positive for right eye pain especially when closing lids.

Ear/Nose/Throat: negative.

Cardiovascular: negative.

Respiratory: negative.

Gastrointestinal: negative.

Genitourinary: negative.

Musculoskeletal: negative.

Integumentary (skin): negative.

Neurologic: negative.

Psychiatric: negative.

Endocrine: negative.

Hematologic/Lymphatic: negative.

Immunologic/Allergic: negative.

PAST MEDICAL/SURGICAL HISTORY:

Computerized Problem List is the source for the following:

1. Peripheral neuropathic pain
2. Primary erectile dysfunction, Onset 04/00/19

2) Non-VA MULTIVITAMIN CAP/TAB CAP/TAB BY MOUTH EVERY DAY ACTIVE

7 Total Medications
Non-VA Medications

=====

Flaxseed Oil. 1 capsule by mouth every day
Multivitamin Cap/tab. Cap/tab by mouth every day
No Active Remote Medications for this patient

ALLERGIES/ADVERSE REACTIONS: VICODIN

PERTINENT SOCIAL HISTORY: DIVORCED

TOBACCO STATUS:

TOBACCO

CURRENT TOBACCO USER 09/14/2015

VA-TOBACCO USE SCREEN [C]

VA-TOBACCO FORMER USER 02/12/2020

TOBACCO

QUIT TOBACCO >12 MO & <7 YRS AGO 02/23/2011

VA-TOBACCO USE SCREEN [C]

VA-TOBACCO QUIT 5 TO < 15 YRS 02/12/2020

TOBACCO

QUIT TOBACCO >7 YEARS AGO 09/22/2017

VA-TOBACCO USE SCREEN [C]

VA-TOBACCO QUIT 15 YRS OR MORE 12/27/2018

TOBACCO

LIFETIME NON-USER OF TOBACCO 08/17/2016

Alcohol:

Drugs:

MEDICATION RECONCILIATION:

Modified Medication Reconciliation was performed at today's visit:
Medications/allergies were reviewed to ensure safe prescribing. Any
medication change or addition at this clinic visit was either short-term or
temporary. The importance of managing medication information was explained
to the patient. The patient has a list of any short-term medications.

Medication counseling/education for new medication(s) was provided to the

3. Injury of tendon of the rotator cuff of shoulder
4. CAD - Coronary artery disease
5. Dilatation of aorta
6. Aortic sclerosis
7. Right cardiac ventricular dilatation
8. Syncope
9. Alcoholic cirrhosis
10. Chronic obstructive pulmonary disease
11. Ventricular tachycardia
12. Atrial fibrillation
13. Psoriasis
14. Cannabis dependence
15. Drug addiction
16. Back pain
17. Bilateral inguinal hernia
18. Alcohol abuse
19. Benign essential hypertension

CURRENT MEDS:

Active Outpatient Medications (excluding Supplies):

Active Outpatient Medications		Status
=====		
1)	ASPIRIN 81MG EC TAB TAKE ONE TABLET BY MOUTH EVERY DAY TO REDUCE RISK OF HEART ATTACK OR STROKE	ACTIVE
2)	ATORVASTATIN CALCIUM 20MG TAB TAKE ONE TABLET BY MOUTH EVERY DAY TO REDUCE CHOLESTEROL * LIMIT USE OF GRAPEFRUIT PRODUCTS	ACTIVE
3)	METOPROLOL SUCCINATE 50MG SA TAB TAKE ONE-HALF TABLET BY MOUTH EVERY DAY	ACTIVE
4)	RIFAXIMIN 550MG TAB TAKE ONE TABLET BY MOUTH TWICE A DAY FOR HEPATIC ENCEPHALOPATHY	ACTIVE
5)	SILDENAFIL CITRATE 100MG TAB TAKE ONE TABLET BY MOUTH EVERY DAY AS NEEDED ONE HOUR BEFORE SEXUAL ACTIVITY. NOT TO EXCEED ONCE PER DAY. * AVOID GRAPEFRUIT PRODUCTS	ACTIVE
Active Non-VA Medications		Status
=====		
1)	Non-VA FLAXSEED OIL 1 CAPSULE BY MOUTH EVERY DAY	ACTIVE

patient. Understanding of the indication for the medication(s), how it should be taken and what to expect was assessed. Patient, caregiver, or family member was able to correctly answer questions about the patient's new medication(s).

SVC BRANCH: ARMY SVC ENTRY DATE: SEP 18,1973 SVC SEP DATE: SEP 17,1976

EXAMINATION: VITAL SIGNS (10/25/20):
T97.8F; P61; R16; BP127/84; WT193lb [87.54kg]; PN8; HT74.0
Pulse oximetry, room air: Interpretation: Normal.

GENERAL: alert and oriented. Tearing from right eye
HEENT: Injected right eye. Pupil reactive. EOM's full. After fluorescein, 2.5 - 3.0 triangular shaped corneal abrasion at 8 o'clock over cornea of right eye. No other deformities., Left eye intact.,
NECK: supple, no enlarged lymph nodes.

.

Reviewed prior prior records.

EMERGENCY DEPARTMENT COURSE/DECISION MAKING:Patient appears to have a right corneal abrasion. Erythromycin ophthalmic ointment applied along right lower lid and Eye closed and patch placed over eye and taped firmly.

DIAGNOSIS:Corneal abrasion Right eye

DISPOSITION:Eye patch times 12-24 hours. Follow-up 2 days if no better.

DISCHARGE MEDICATIONS:

INSTRUCTIONS:

Follow-up in:

Current future appointments are listed as follows:
No Data Available

/es/ Janet A. Rosenquist, MD
Attending Physician
Signed: 10/25/2020 15:17

Mr Michael Bartley
810 Vermont Ave NW
WASHINGTON DC 20420

Dear Mr Michael Bartley,

My name is Sheryl Emborne and since early 2018, I have been Randall Neal's caregiver.

Randall is a successfully recovering alcoholic since April of 2019. Early in March of that year, after 2 yrs of an undiagnosed malady, it is my opinion there is discrimination against alcoholics at the VA. I suggested that we entertain a second opinion at my Hospital, Overlake of Bellevue WA. Randall was admitted (see hospital records) and diagnosed with a chronic infection of Cryptosporidia, and NOVA Virus, ~~that~~ in ~~addition~~ addition to his alcoholism. I had been to the VA with Randall since I started and complained of symptoms at regular appointments and at The ER, as he got thinner and thinner, sicker and sicker.

One clinician even commented of the dramatic "Loss of muscle mass" at one of his appointments. Randall almost died! See pictures included of Randall during the time. This was an egregious event on the part of the VA, and his Dr at the time ~~was~~ Dr Alexander. Lisa, Randall's sister, caught Dr Alexander being lazy in his

prescribing medications as he let them
pile up, without reviewing previous
prescriptions. This happened as well.
Randell was injured (penile dysfunction)
and almost died as a result of
VA Hospitals, ~~for~~ failure to diagnose
his parasitic infection for years.
I ~~was~~ witnessed these events.

Sincerely

Cheryl Schembrie

PS. This letter was penned by
Randell Nealy

Jan 31, 2022

Statement of Merit

My claim is Valid, therefore has Merit.

From late 2016 until April, 2019, I suffered from parasitic infestation in the form of Cryptosporidia and Nova Virus. This entire time I was under the care of VA Hospital Seattle WA. This condition was undiagnosed even though numerous complaints were made and two trips to the ER were recorded, in an attempt to find out what was wrong. I am wasting away and my caregiver Cheryl Sherman, INSISTED, (I am hard-headed) we go to Overlake Hospital and get a second opinion. THAT DAY, after ordinary, what you do by the book testing, when faced with my ~~sm~~ symptoms, Drs. at Overlake, discovered a severe ~~infestation~~ parasitic infestation of Cryptosporidia and Nova Virus. I was shocked as this should have been tested for at VA Seattle. BY ROTE!

The casual neglect exhibited at VA Seattle and failure to diagnose, has resulted in pain and suffering and permanent injury.

From my research, I have arrived at the figure of \$340,000.00 as compensation for 1) erectile dysfunction, 2) gastrointestinal incontinence, flarings, pain, joint pain. 3) 2 1/2 years of unnecessary TORTURE. This happened. I was injured. The U.S. Gov. owes me compensation.

Sincerely 
Randall B. Neaty